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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,842	10/01/2003	Brooks R. Nolan	LCOM:006	3762
7590	04/06/2006		EXAMINER	
O'KEEFE, EGAN & PETERMAN, L.L.P. Suite 200 Building C 1101 Capital of Texas Highway South Austin, TX 78746			HOLZEN, STEPHEN A	
			ART UNIT	PAPER NUMBER
			3644	
			DATE MAILED: 04/06/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/676,842	NOLAN, BROOKS R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Stephen A. Holzen	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 January 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 9-21,23-35,52 and 54-86 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 9-21,23-35,52 and 54-86 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/12/05</u> | 6) <input type="checkbox"/> Other: _____.  |

**DETAILED ACTION*****Election/Restrictions***

1. Applicant has amended the claims such that the election requirement is no longer appropriate. The examiner withdraws this requirement and acts on the claims as presently amended.
  
2. Note to applicant: It is improper for applicant to assert that all the claims fall within group I. Instead the applicant should have elected group I and then traversed the examiners restriction requirement and requested reconsideration. While the applicant did not precisely comply with restriction response requirement, the examiner waives this minor requirement in order to advance prosecution.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 9-21, 23-35, 52, 54-86 are rejected under 35 U.S.C. 102(b) as being anticipated by Newton (3,698,480).

Method claims are only limited by the steps they perform and the structure required for these steps. The applicant has claimed structure not specifically

required by the method steps and therefore this structure has not been afforded patentable weight. The applicant's process can be summarized as follows:

An aerial dispersion method comprising:

- i. Installing two or more modular aerial dispersant holding tanks on a fixed wing aircraft
- ii. Installing a dispersal regulator and airborne dispersal device on a fixed wing aircraft
- iii. After ii: removing two or more modular aerial dispersant holding tanks from the fixed wing host aircraft
- iv. After ii: removing the dispersal regulator and airborne dispersal device from the fixed wing host aircraft

Newton anticipates the claims since he discloses a method for airborne fire suppression by means of a portable fire retardant chemical dispensing system that can be installed and removed from a fixed winged aircraft. Newton discloses two tanks (dropping tank #2 and reserve tank #1) that are "fluidly coupled together". Newton discloses that the system is readily installed and removed from the aircraft with a minimum of tools in a minimum of man-hours for increasing utilization of the aircraft. (See abstract).

Newton discloses a portable fire retardant dispensing system compatible with current, retardant chemicals, loading facilities, methods of

usage and dispensing and available aircraft. A system easily installed, requiring only minor modification to the aircraft, and only while the unit is installed. (See Col. 1, lines 14-19).

Tank 1 is supported by attached frame that is designed to distribute and transmit its load to the aircraft structure in a normal manner through the cargo floor and attach points. It is installed as a unit and attached to the aircraft using existing provisions for normal cargo restraint.

Tank assembly 2 is supported by attached frame, and is installed as a unit in such a location as to position the doors 3 of the tank over, or through an existing opening, usable in flight, such as provided by removing an existing cargo door etc. and attached to the aircraft using existing provisions for normal cargo restraint and existing fittings.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 9, 10, and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims

duplicate claim language from their parent claims and therefore do not serve to limit their parent claims in any patentable sense.

***Notes to Applicant***

6. Should applicant make a convincing argument that the structure in the method claims do hold patentable weight, the applicant should know that the examiner (had he given the structural limitations patentable weight) could have rejected the claims under 103(a) Newton in view of Hale et al (2005/0017131).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A. Holzen whose telephone number is 571-272-6903. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sah



PETER M. POON  
SUPERVISORY PATENT EXAMINER

9/3/06

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